

Article - Health - General

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§8–505.

(a) (1) (i) Except as provided in paragraph (2) of this subsection, before or during a criminal trial, before or after sentencing, or before or during a term of probation, the court may order the Department to evaluate a defendant to determine whether, by reason of drug or alcohol abuse, the defendant is in need of and may benefit from treatment if:

1. It appears to the court that the defendant has an alcohol or drug abuse problem; or

2. The defendant alleges an alcohol or drug dependency.

(ii) A court shall set and may change the conditions under which an examination is to be conducted under this section.

(iii) The Department shall ensure that each evaluation under this section is conducted in accordance with regulations adopted by the Department.

(2) (i) If a defendant is serving a sentence for a crime of violence, as defined in § 14–101 of the Criminal Law Article, a court may not order the Department to evaluate a defendant under this section until the defendant is eligible for parole.

(ii) Nothing in this paragraph may be construed to prohibit a defendant who is serving a sentence for a crime of violence, as defined in § 14–101 of the Criminal Law Article from participating in any other treatment program or receiving treatment under the supervision of the Department under any other provision of law.

(b) On consideration of the nature of the charge, the court:

(1) May require or permit an examination to be conducted on an outpatient basis; and

(2) If an outpatient examination is authorized, shall set bail for the defendant or authorize the release of the defendant on personal recognizance.

(c) (1) If a defendant is to be held in custody for examination under this section:

(i) The defendant may be confined in a detention facility until the Department is able to conduct the examination; or

(ii) The court may order confinement of the defendant in a medical wing or other isolated and secure unit of a detention facility, if the court finds it appropriate for the health or safety of the defendant.

(2) (i) If the court finds that, because of the apparent severity of the alcohol or drug dependency or other medical or psychiatric complications, a defendant in custody would be endangered by confinement in a jail, the court may order the Department to either:

1. Place the defendant, pending examination, in an appropriate health care facility; or

2. Immediately conduct an evaluation of the defendant.

(ii) Unless the Department retains a defendant, the defendant shall be promptly returned to the court after an examination.

(iii) A defendant who is detained for an examination under this section may question at any time the legality of the detention by a petition for a writ of habeas corpus.

(d) (1) If a court orders an evaluation under this section, the evaluator shall:

(i) Conduct an evaluation of the defendant; and

(ii) Submit a complete report of the evaluation within 7 days to the:

1. Court;

2. Department; and

3. Defendant or the defendant's attorney.

(2) On good cause shown, a court may extend the time for an evaluation under this section.

(3) Whenever an evaluator recommends treatment, the evaluator's report shall:

(i) Name a specific program able to immediately provide the recommended treatment; and

(ii) Give an actual or estimated date when the program can begin treatment of the defendant.

(e) (1) The Department shall immediately provide the services required by this section.

(2) A designee of the Department may carry out any of its duties under this section.

(f) Evaluations performed in facilities operated by the Department of Public Safety and Correctional Services shall be conducted by the Administration.

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